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March 1, 2013

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To: Supervisor Mark Ridley-Thomas, Chairman
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From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name and title.

PROGRESS REPORT ON IMMIGRATION REFORM (ITEM NO. 34-B, BOARD MEETING OF FEBRUARY 5, 2013)

This memorandum is to provide a progress report on immigration reform legislation, as instructed by the Board on February 5, 2013.

As of the writing of this report, immigration reform legislation has not yet been introduced in Congress other than S. 1, a short "Sense of the Senate" placeholder bill, which Senate Majority Leader Reid introduced and numbered the bill, S. 1, to signify its importance. Congressional committees, however, have held several informational hearings on topics relating to immigration reform. The House Judiciary Committee, which has primary jurisdiction over immigration in the House, has held hearings on:

- America's Immigration System: Opportunities for Legal Immigration and Enforcement of Laws Against Illegal Immigration on February 5, 2013;
- Agricultural Labor Visa Programs relating to existing and potential agricultural temporary worker programs, on February 26, 2013;
- E-Verify Program, which is an internet-based system that employers may use for verifying whether their employees are U.S. citizens or legal immigrants who are authorized to work, on February 27, 2013.

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In addition, the House Homeland Security Committee, which oversees the Department of Homeland Security, held a hearing on border security on February 26, 2013, and the Senate Judiciary Committee, which has primary jurisdiction over immigration in the Senate, held a hearing on comprehensive immigration reform on February 13, 2013.

Draft Obama Administration Immigration Reform Bill Language

On February 17, 2013, portions of a draft Obama Administration immigration reform bill language were leaked to USA Today and the Miami Herald, which were posted on their websites. The leaked portions covered: Title I: Enforcement; Subtitle II: Legalization of Undocumented Individuals; Subtitle X: Employment Verification System; and Subtitle XI: Protecting American Workers. Based on the numbering of these titles and subtitles, much of the entire draft bill language, including the legal immigration sections, was not leaked.

The draft Obama Administration bill language is generally consistent with the corresponding sections of the attached White House immigration reform principles, which were released on January 29, 2013. However, one major difference is that draft bill language allows undocumented immigrants who are granted lawful provisional immigrant (LPI) status on their path to citizenship may apply for lawful permanent resident (LPR) status within eight years or 30 days after current legal immigration backlogs are cleared, whichever comes first. Under the White House principles, they must wait until after the immigration backlogs have been cleared before they can apply for LPR status. This change is significant because it could take far longer than eight years for current immigration backlogs to be cleared. For example, the backlog for certain "green card" applicants from the Philippines currently is 24 years.

Under the draft bill, undocumented immigrants granted LPI status would be barred from receiving most Federal means-tested public benefits, including non-emergency Medicaid services and the Affordable Care Act's (ACA) health exchange subsidies. In addition, the current 5-year period of ineligibility for most Federal means-tested public benefits for LPRs also will apply to LPIs after they become LPRs. **Therefore, newly legalized individuals may have to wait for 13 years before they become eligible for full-scope Medicaid benefits. In California, counties, however, must provide general assistance and medical care to indigent legalized individuals while they are barred from receiving Federal benefits, including Medicaid, Temporary Assistance for Needy Families (CalWORKs), and Supplemental Nutrition Assistance Program benefits.**

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After the draft immigration reform bill language was leaked, Administration officials indicated that the leak was unintentional and that the draft bill language would be distributed to affected Federal departments for their review. In addition, only portions of the draft immigration reform legislation were leaked. Therefore, the leaked draft bill language may not represent the Administration's "final" draft bill language.

We will continue to keep you advised.

WTF:RA
MR:MT:ma

Attachment

The White House

Office of the Press Secretary

For Immediate Release

January 29, 2013

FACT SHEET: Fixing our Broken Immigration System so Everyone Plays by the Rules

America's immigration system is broken. Too many employers game the system by hiring undocumented workers and there are 11 million people living in the shadows. Neither is good for the economy or the country.

It is time to act to fix the broken immigration system in a way that requires responsibility from everyone - both from the workers here illegally and those who hire them - and guarantees that everyone is playing by the same rules.

President Obama's commonsense immigration reform proposal has four parts. First, continue to strengthen our borders. Second, crack down on companies that hire undocumented workers. Third, hold undocumented immigrants accountable before they can earn their citizenship; this means requiring undocumented workers to pay their taxes and a penalty, move to the back of the line, learn English, and pass background checks. Fourth, streamline the legal immigration system for families, workers, and employers.

Together we can build a fair, effective and commonsense immigration system that lives up to our heritage as a nation of laws and a nation of immigrants.

The key principles the President believes should be included in commonsense immigration reform are:

- **Continuing to Strengthen Border Security:** President Obama has doubled the number of Border Patrol agents since 2004 and today border security is stronger than it has ever been. But there is more work to do. The President's proposal gives law enforcement the tools they need to make our communities safer from crime. And by enhancing our infrastructure and technology, the President's proposal continues to strengthen our ability to remove criminals and apprehend and prosecute national security threats.
- **Cracking Down on Employers Hiring Undocumented Workers:** Our businesses should only employ people legally authorized to work in the United States. Businesses that knowingly employ undocumented workers are exploiting the system to gain an advantage over businesses that play by the rules. The President's proposal is designed to stop these unfair hiring practices and hold these companies accountable. At the same time, this proposal gives employers who want to play by the rules a reliable way to verify that their employees are here legally.
- **Earned Citizenship:** It is just not practical to deport 11 million undocumented immigrants living within our borders. The President's proposal provides undocumented immigrants a legal way to earn citizenship that will encourage them to come out of the shadows so they can pay their taxes and play by the same rules as everyone else. Immigrants living here illegally must be held responsible for their actions by passing national security and criminal background checks, paying taxes and a penalty, going to the back of the line, and learning English before they can earn their citizenship. There will be no uncertainty about their ability to become U.S. citizens if

they meet these eligibility criteria. The proposal will also stop punishing innocent young people brought to the country through no fault of their own by their parents and give them a chance to earn their citizenship more quickly if they serve in the military or pursue higher education.

- **Streamlining Legal Immigration:** Our immigration system should reward anyone who is willing to work hard and play by the rules. For the sake of our economy and our security, legal immigration should be simple and efficient. The President's proposal attracts the best minds to America by providing visas to foreign entrepreneurs looking to start businesses here and helping the most promising foreign graduate students in science and math stay in this country after graduation, rather than take their skills to other countries. The President's proposal will also reunify families in a timely and humane manner.

Continuing to Strengthen Border Security

- **Strengthen border security and infrastructure.** The President's proposal strengthens and improves infrastructure at ports of entry, facilitates public-private partnerships aimed at increasing investment in foreign visitor processing, and continues supporting the use of technologies that help to secure the land and maritime borders of the United States.
- **Combat transnational crime.** The President's proposal creates new criminal penalties dedicated to combating transnational criminal organizations that traffic in drugs, weapons, and money, and that smuggle people across the borders. It also expands the scope of current law to allow for the forfeiture of these organizations' criminal tools and proceeds. Through this approach, we will bolster our efforts to deprive criminal enterprises, including those operating along the Southwest border, of their infrastructure and profits.
- **Improve partnerships with border communities and law enforcement.** The President's proposal expands our ability to work with our cross-border law enforcement partners. Community trust and cooperation are keys to effective law enforcement. To this end, the U.S. Department of Homeland Security (DHS) will establish border community liaisons along the Southern and Northern borders to improve communication and collaboration with border communities, boost funding to tribal government partners to reduce illegal activity on tribal lands, and strengthen training on civil rights and civil liberties for DHS immigration officers.
- **Crack down on criminal networks engaging in passport and visa fraud and human smuggling.** The President's proposal creates tough criminal penalties for trafficking in passports and immigration documents and schemes to defraud, including those who prey on vulnerable immigrants through notario fraud. It also strengthens penalties to combat human smuggling rings.
- **Deporting Criminals.** The President's proposal expands smart enforcement efforts that target convicted criminals in federal or state correctional facilities, allowing us to remove them from the United States at the end of their sentences without re-entering our communities. At the same time, it protects those with a credible fear of returning to their home countries.
- **Streamline removal of nonimmigrant national security and public safety threats.** The President's proposal creates a streamlined administrative removal process for people who overstay their visas and have been determined to be threats to national security and public safety.

- **Improve our nation's immigration courts.** The President's proposal invests in our immigration courts. By increasing the number of immigration judges and their staff, investing in training for court personnel, and improving access to legal information for immigrants, these reforms will improve court efficiency. It allows DHS to better focus its detention resources on public safety and national security threats by expanding alternatives to detention and reducing overall detention costs. It also provides greater protections for those least able to represent themselves.

Cracking Down on Employers Who Hire Undocumented Workers

- **Mandatory, phased-in electronic employment verification.** The President's proposal provides tools for employers to ensure a legal workforce by using federal government databases to verify that the people they hire are eligible to work in the United States. Penalties for hiring undocumented workers are significantly increased, and new penalties are established for committing fraud and identity theft. The new mandatory program ensures the privacy and confidentiality of all workers' personal information and includes important procedural protections. Mandatory electronic employment verification would be phased in over five years with exemptions for certain small businesses.
- **Combat fraud and identity theft.** The proposal also mandates a fraud-resistant, tamper-resistant Social Security card and requires workers to use fraud-and tamper-resistant documents to prove authorization to work in the United States. The proposal also seeks to establish a voluntary pilot program to evaluate new methods to authenticate identity and combat identity theft.
- **Protections for all workers.** The President's proposal protects workers against retaliation for exercising their labor rights. It increases the penalties for employers who hire undocumented workers to skirt the workplace standards that protect all workers. And it creates a "labor law enforcement fund" to help ensure that industries that employ significant numbers of immigrant workers comply with labor laws.

Pathway to Earned Citizenship

- **Create a provisional legal status.** Undocumented immigrants must come forward and register, submit biometric data, pass criminal background and national security checks, and pay fees and penalties before they will be eligible for a provisional legal status. Agricultural workers and those who entered the United States as children would be eligible for the same program. Individuals must wait until the existing legal immigration backlogs are cleared before getting in line to apply for lawful permanent residency (i.e. a "green card"), and ultimately United States citizenship. Consistent with current law, people with provisional legal status will not be eligible for welfare or other federal benefits, including subsidies or tax credits under the new health care law.
- **Create strict requirements to qualify for lawful permanent resident status.** Those applying for green cards must pay their taxes, pass additional criminal background and national security checks, register for Selective Service (where applicable), pay additional fees and penalties, and learn English and U.S. civics. As under current law, five years after receiving a green card, individuals will be eligible to apply for U.S. citizenship like every other legal permanent resident.

- **Earned citizenship for DREAMers.** Children brought here illegally through no fault of their own by their parents will be eligible for earned citizenship. By going to college or serving honorably in the Armed Forces for at least two years, these children should be given an expedited opportunity to earn their citizenship. The President's proposal brings these undocumented immigrants out of the shadows.
- **Create administrative and judicial review.** An individual whose provisional lawful status has been revoked or denied, or whose application for adjustment has been denied, will have the opportunity to seek administrative and judicial review of those decisions.
- **Provide new resources to combat fraud.** The President's proposal authorizes funding to enable DHS, the Department of State, and other relevant federal agencies to establish fraud prevention programs that will provide training for adjudicators, allow regular audits of applications to identify patterns of fraud and abuse, and incorporate other proven fraud prevention measures.

Streamlining Legal Immigration

- **Keep Families Together.** The proposal seeks to eliminate existing backlogs in the family-sponsored immigration system by recapturing unused visas and temporarily increasing annual visa numbers. The proposal also raises existing annual country caps from 7 percent to 15 percent for the family-sponsored immigration system. It also treats same-sex families as families by giving U.S. citizens and lawful permanent residents the ability to seek a visa on the basis of a permanent relationship with a same-sex partner. The proposal also revises current unlawful presence bars and provides broader discretion to waive bars in cases of hardship.
- **Cut Red Tape for Employers.** The proposal also eliminates the backlog for employment-sponsored immigration by eliminating annual country caps and adding additional visas to the system. Outdated legal immigration programs are reformed to meet current and future demands by exempting certain categories from annual visa limitations.
- **Enhance travel and tourism.** The Administration is committed to increasing U.S. travel and tourism by facilitating legitimate travel while maintaining our nation's security. Consistent with the President's Executive Order on travel and tourism, the President's proposal securely streamlines visa and foreign visitor processing. It also strengthens law enforcement cooperation while maintaining the program's robust counterterrorism and criminal information sharing initiatives. It facilitates more efficient travel by allowing greater flexibility to designate countries for participation in the Visa Waiver Program, which allows citizens of designated countries to visit the United States without obtaining a visa. And finally it permits the State Department to waive interview requirements for certain very low-risk visa applicants, permitting resources to be focused on higher risk applicants and creates a pilot for premium visa processing.
- **"Staple" green cards to advanced STEM diplomas.** The proposal encourages foreign graduate students educated in the United States to stay here and contribute to our economy by "stapling" a green card to the diplomas of science, technology, engineering and mathematics (STEM) PhD and Master's Degree graduates from qualified U.S. universities who have found employment in the United States. It also requires employers to pay a fee that will support education and training to grow the next generation of American workers in STEM careers.

- **Create a “startup visa” for job-creating entrepreneurs.** The proposal allows foreign entrepreneurs who attract financing from U.S. investors or revenue from U.S. customers to start and grow their businesses in the United States, and to remain permanently if their companies grow further, create jobs for American workers, and strengthen our economy.
- **Expand opportunities for investor visas and U.S. economic development.** The proposal permanently authorizes immigrant visa opportunities for regional center (pooled investment) programs; provides incentives for visa requestors to invest in programs that support national priorities, including economic development in rural and economically depressed regions ; adds new measures to combat fraud and national security threats; includes data collection on economic impact; and creates a pilot program for state and local government officials to promote economic development.
- **Create a new visa category for employees of federal national security science and technology laboratories.** The proposal creates a new visa category for a limited number of highly-skilled and specialized immigrants to work in federal science and technology laboratories on critical national security needs after being in the United States. for two years and passing rigorous national security and criminal background checks.
- **Better addresses humanitarian concerns.** The proposal streamlines immigration law to better protect vulnerable immigrants, including those who are victims of crime and domestic violence. It also better protects those fleeing persecution by eliminating the existing limitations that prevent qualified individuals from applying for asylum.
- **Encourage integration.** The proposal promotes earned citizenship and efforts to integrate immigrants into their new American communities linguistically, civically, and economically.